

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

NEPTUNE TECHNOLOGIES &
BIORESSOURCES, INC., and
L'UNIVERSITÉ DE SHERBROOKE,

Plaintiffs,

v.

AKER BIOMARINE ASA,
AKER BIOMARINE ANTARCTIC AS,
JEDWARDS INTERNATIONAL, INC., and
VIRGIN ANTARCTIC LLC,

Defendants.

AKER BIOMARINE ANTARCTIC AS,
JEDWARDS INTERNATIONAL, INC., and
VIRGIN ANTARCTIC LLC,

Counterclaim Plaintiffs,

v.

NEPTUNE TECHNOLOGIES &
BIORESSOURCES, INC., and
L'UNIVERSITÉ DE SHERBROOKE,

Counterclaim Defendants.

C.A. No. 1:09-cv-11946-MLW

DECLARATION OF JASON H. LISS
IN OPPOSITION TO AKBM
ANTARCTIC'S RENEWED MOTION
FOR SUMMARY JUDGMENT OF
NON-INFRINGEMENT

FILED UNDER SEAL

**DECLARATION OF JASON H. LISS IN OPPOSITION TO AKBM ANTARCTIC'S
RENEWED MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT**

I, Jason H. Liss, hereby depose and state as follows:

1. I am an attorney at Wilmer Cutler Pickering Hale and Dorr LLP, located at 60 State Street, Boston, Massachusetts. I am a member in good standing of the bars of this Court and of the Commonwealth of Massachusetts, and represent Plaintiffs Neptune

Technologies & Bioressources, Inc. (“Neptune”) and L’Université de Sherbrooke in this action.

2. Attached hereto as Exhibit A is a true and accurate copy of United States Patent No. 6,800,299.
3. Attached hereto as Exhibit B is a true and accurate copy of the Expert Report of Bradley Moore, Ph.D., dated October 1, 2010. This exhibit contains confidential information and is filed under seal.
4. Attached hereto as Exhibit C is a true and accurate copy of Aker BioMarine ASA’s and Aker BioMarine Antarctic AS’s First Supplemental Responses and Objections to Plaintiffs’ First Set of Interrogatories (Nos. 1, 3–5, 7, 11). This exhibit contains confidential information and is filed under seal.
5. Attached hereto as Exhibit D is a true and accurate copy of a document titled Krill Meal Process Flowchart and Description produced by Defendants as AKBM 1-2. This exhibit contains confidential information and is filed under seal.
6. Attached hereto as Exhibit E is a true and accurate excerpt of the transcript of the deposition of Svein Ivar Holm taken August 26, 2010. This exhibit contains confidential information and is filed under seal.
7. Attached hereto as Exhibit F is a true and accurate copy of a document titled Superba Krill Oil Process Flowchart and Description produced by Defendants as AKBM 3-21. This exhibit contains confidential information and is filed under seal.
8. Attached hereto as Exhibit G is a true and accurate excerpt of the transcript of the deposition of Anne Grethe Gustavsen taken August 27, 2010. This exhibit contains confidential information and is filed under seal.

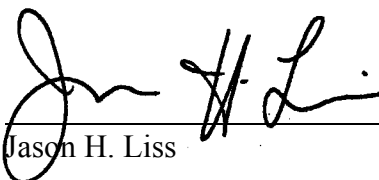
9. Attached hereto as Exhibit H is a true and accurate excerpt of the transcript of the deposition of Daniel Raben, Ph.D., taken November 17, 2010. This exhibit contains confidential information and is filed under seal.
10. Attached hereto as Exhibit I is a true and accurate copy of a report of testing conducted by Laboratoire Garmen, Inc. and produced by Plaintiffs as NEP_AKBM 1390-1430. Exhibit I also includes translations of certain French-language documents at NEP_AKBM 1431-1442.
11. Attached hereto as Exhibit J is a true and accurate copy of the webpage <http://www.akerbiomarine.com/text.cfm?path=200&id=3-1686> accessed on January 7, 2011.
12. Attached hereto as Exhibit K is a true and accurate excerpt of the transcript of the deposition of Bradley Moore, Ph.D., taken November 9, 2010. This exhibit contains confidential information and is filed under seal.
13. Attached hereto as Exhibit L is a true and accurate copy of reports of testing conducted by Neptune and produced as NEP_AKBM 909-13, 930-52, 961-65, 1055-62, 1222-30. This exhibit contains confidential information and is filed under seal.
14. Attached hereto as Exhibit M is a true and accurate copy of Plaintiffs' First Set of Interrogatories to Defendants (Nos. 1-11) and Plaintiffs' Second Set of Interrogatories to Defendants (No. 12).
15. Attached hereto as Exhibit N is a true and accurate copy of Plaintiffs' First Set of Requests for Production to Defendants (Nos. 1-32) and Plaintiffs' Amended First Set of Requests for Production to Defendants (Nos. 3-4, 7-8, 12).

16. Attached hereto as Exhibit O is a true and accurate copy of Plaintiffs' Notices of Deposition of Aker BioMarine Antarctic AS, Naturex S.A., Svein Ivar Holm, and Anne Grethe Gustavsen.
17. Attached hereto as Exhibit P is a true and accurate copy of correspondence from counsel for Plaintiffs Sadaf R. Abdullah to counsel for Defendants Amanda Hollis dated September 17, 2010. This exhibit contains confidential information and is filed under seal.
18. Attached hereto as Exhibit Q is a true and accurate copy of correspondence from counsel for Plaintiffs Sadaf R. Abdullah to counsel for Defendants Amanda Hollis dated September 23, 2010.
19. Attached hereto as Exhibit R is a true and accurate copy of correspondence from counsel for Plaintiffs Sadaf R. Abdullah to counsel for Defendants Amanda Hollis dated September 24, 2010. This exhibit contains confidential information and is filed under seal.
20. Attached hereto as Exhibit S is a true and accurate excerpt of the transcript of proceedings before the Court on October 13, 2010.
21. Attached hereto as Exhibit T is a true and accurate copy of correspondence from counsel for Plaintiffs Sadaf R. Abdullah to counsel for Defendants Amanda Hollis dated August 13, 2010. This exhibit contains confidential information and is filed under seal.
22. Attached hereto as Exhibit U is a true and accurate copy of correspondence from counsel for Plaintiffs Sadaf R. Abdullah to counsel for Defendants Amanda Hollis dated September 7, 2010. This exhibit contains confidential information and is filed under seal.

23. Attached hereto as Exhibit V is a true and accurate copy of correspondence from counsel for Plaintiffs Sadaf R. Abdullah to counsel for Defendants Amanda Hollis dated August 2, 2010. This exhibit contains confidential information and is filed under seal.
24. Attached hereto as Exhibit W is a true and accurate copy of correspondence from counsel for Defendants Amanda Hollis to counsel for Plaintiffs Sadaf R. Abdullah dated August 4, 2010. This exhibit contains confidential information and is filed under seal.
25. Attached hereto as Exhibit X is a true and accurate copy of correspondence from counsel for Defendants Amanda Hollis to counsel for Plaintiffs Sadaf R. Abdullah dated September 10, 2010. This exhibit contains confidential information and is filed under seal.
26. Attached hereto as Exhibit Y is a true and accurate copy of Defendants' Notice of Deposition of Yesu Das, Ph.D.
27. Attached hereto as Exhibit Z is a true and accurate copy of Defendants' Report of Daniel Raben, Ph.D. This exhibit contains confidential information and is filed under seal.
28. Attached hereto as Exhibit AA is a true and accurate copy of the webpage <http://www.superbakrilloil.com/section.cfm?path=59> accessed January 7, 2011.
29. Attached hereto as Exhibit BB is a true and accurate copy of an amendment in response to an office action in the file history of the '299 patent produced by Plaintiffs as NEP_AKBM 53-66.
30. Attached hereto as Exhibit CC is a true and accurate copy of a document titled "Lipid Extraction" produced by Defendants as AKBM 4310-29. This exhibit contains confidential information and is filed under seal.

31. Attached hereto as Exhibit DD is a true and accurate copy of a document titled "Superba Krill" produced by Plaintiffs as NEP_AKBM 550-57.
32. Attached hereto as Exhibit EE is a true and accurate copy of a document titled "Certificate of Analysis" produced by Defendants as AKBM 3627. This exhibit contains confidential information and is filed under seal.
33. Attached hereto as Exhibit FF is a true and accurate copy of a preliminary amendment in the file history of the '299 patent produced by Plaintiffs as NEP_AKBM 382-404.
34. Attached hereto as Exhibit GG is a true and accurate copy of documents titled "Instruction du Fabrication" produced by Defendants as AKBM 22-61, 101-08. This exhibit contains confidential information and is filed under seal.
35. Attached hereto as Exhibit HH is a true and accurate excerpt of the transcript of the deposition of Dr. Tina Sampalis taken August 24, 2010.
36. [REDACTED]
[REDACTED]
37. Defendants did not produce reports of analyses of krill meal conducted onboard the vessel on which Aker harvests krill. Defendants did not produce reports of in-process analyses conducted by Naturex.

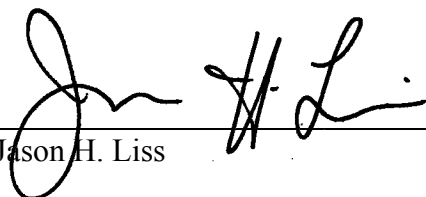
Signed under the pains and penalties of perjury this 7th day of January, 2011.



Jason H. Liss

Certificate of Service

I hereby certify that this document filed through the Electronic Case Filing system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that paper copies will be sent to those indicated as non-registered participants on January 7, 2011.



Jason H. Liss